

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the April 19, 2006
Board of Review Meeting

Date: April 21, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO
CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, April 19, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, April 26, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Sieber and seconded by Mr. Serico, the minutes of the April 12, 2006 meeting were approved, except that the docket number for the case under old business is 99, 057.

3. Old Business

(a) 97,707

Ms. Barnwell presented this case which was tabled for further research and involved a claimant who was a corporate officer and 25% shareholder in the company on which his claim was based. The business ceased operations and the claimant filed for dissolution. The claimant had not received the Tax Clearance Certificate. The Appeal Tribunal had held the claim filed as of November 13, 2005 invalid under N.J.S.A. 43:21-19(m)(1). After discussion, the Board voted to affirm the Appeal Tribunal with an additional sentence that the claimant may wish to file another claim at a later date.

4. New Business

(a) 99,941

Ms. Futterman described this case that involved a claimant who lived and worked in New Jersey. He later moved to Nevada and worked in that state. The claimant filed claims for unemployment benefits in New Jersey and Nevada. The Appeal Tribunal had held the claim filed April 24, 2005 valid with a weekly benefit rate of \$503.00 and a maximum benefit amount of \$13,078.00. The Board noted that the claimant's testimony conflicted with information from the employer. As a result, the Board voted to remand the case for additional testimony from the claimant and employer, who shall be subpoenaed. Ms. Futterman will prepare the remand.

(b) 99,322

As presented by Mr. Maddow, this case involved a claimant who suffered a work-related injury and went on Workers' Compensation. The company closed before the claimant was able to work. He filed a claim for unemployment benefits as of May 22, 2005. He was advised to contact the Trade Readjustment Act (TRA) program during a meeting on October 20, 2005 and finally spoke to a representative on November 30, 2005. The Appeal Tribunal had held the claimant ineligible for TRA benefits as he did not enroll in training within the specified time period. The Board noted that the record was lacking regarding TRA procedures and voted to remand the case for testimony from the Deputy. Mr. Maddow will prepare the remand.

(c) 102,499

As described by Mr. Maddow, this case involved a claimant who received State Plan disability benefits from May 12, 2005 through November 3, 2005 and filed a claim for unemployment benefits as of November 6, 2005. The claimant presented a medical note dated December 1, 2005 that she was able to work. The Appeal Tribunal had held the claimant ineligible for benefits as of November 6, 2005 through December 3, 2005. The Board noted that the Appeal Tribunal's facts do not indicate whether the claimant was able to work during the period in question and that information is not on the record. As a result, the Board voted to remand the case for additional testimony. Mr. Maddow will prepare the remand.

(d) 102, 213

Mr. Morley presented this case of a claimant who did not participate in the Appeal Tribunal hearing because he was employed. The employer presented specific testimony that the claimant was offered work. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(c). The Board noted that testimony is needed regarding whether the claimant refused, without good cause, to apply or accept suitable work as well as if the claimant's was available for work. As the claimant had good cause for not

participating in the hearing, the Board voted to remand the case for additional testimony. Mr. Morley will prepare the remand.

(e) 99, 311

Ms. Gagliardo described this case that involved a claimant who was informed that she would be laid off on December 15, 2005. The layoff was effective on the same day. She received an additional two weeks pay at the time of her separation. A claim for unemployment benefits was filed as of December 18, 2005. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(c). After discussion, the Board voted to affirm the Appeal Tribunal with an additional sentence instructing the Deputy to allow the claimant the option of choosing between claims dated December 18, 2005 and January 1, 2006. Ms. Gagliardo will prepare the decision.

(f) 99, 291

As presented by Ms. Gagliardo, this case involved a claimant who was discharged by the employer for violation of the employer's policy. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(c). After discussion, the Board voted to affirm the Appeal Tribunal.

(g) 101,182

As described by Ms. Keller, this case involved a claimant whose appeal of a monetary determination of the Deputy was filed late. The Appeal Tribunal had dismissed the appeal under N.J.S.A.43:21-6(b)(1). After discussion, the Board voted to affirm the Appeal Tribunal with an additional sentence that the monetary determination would remain the same if the appellate bodies had jurisdiction as the determination is correct.

(5) Public Portion

The Board and Mr. Hugh O'Hare, Chief Appeal Examiner discussed the probable causes of distortion in a number of digital recordings of Appeal Tribunal hearings.

Ms Kathleen Wardell, Unemployment Insurance Technician advised the Board of a proposal to amend the Division regulations regarding waiver of benefit overpayments

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

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